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FEDERAL COMMUNICATIONS COMMISSION
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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

In the Matter of

Advanced Television Systems
and Their Impact upon the
Existing Television Broadcast
Service

To: The Commission

MM Docket No. 87-268

REPLY COMMENTS OF DIVERSIFIED COMMUNICATIONS

Diversified Communications ("Diversified"), by its attorneys and pursuant to Sections 1.415 and 1.419 of the Commission's Rules, 47 C.F.R. §§ 1.415 and 1.419, submits its Reply Comments in the above-captioned proceeding. By Order released October 20, 1992 (Mimeo No. DA-1445), the deadline for filing reply comments was extended to December 16, 1992. For the reasons set forth below, Diversified urges the Commission to grant further relief to the few uniquely-situated broadcasters, including Diversified, that will be forced to apply for, construct and operate ATV stations in the VHF band on a temporary basis until substitute UHF channels are identified for their permanent use.

Preliminary Statement

Diversified is the licensee of five television stations which operate in smaller markets ranging from Scranton, Pennsylvania (number 49) to Gainesville, Florida (number 165). All of the Diversified stations are network affiliates; two of the stations operate in the VHF band and three are UHF facilities. The Commission, in its Second Further Notice of Proposed Rule

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Making, FCC 92-332, released August 14, 1992 (the "Further Notice"), offered for comment the policies that will govern the allocation of ATV conversion channels and showed how these policies would be employed to design a comprehensive ATV Table of Allotments. Of particular importance to Diversified's Reply Comments is the Commission's proposal that ATV assignments be made exclusively in the UHF band. Further Notice, ¶ 18. However, because of the allocation criteria proposed by the Commission, there are insufficient UHF channels to accommodate, at least initially, each broadcaster in a market with a UHF assignment. Therefore, in seventeen situations, the Commission plans to allocate a VHF channel for temporary ATV operation.

The Scranton, Pennsylvania stations are particularly hard-hit. In Scranton, three VHF channels will be allotted for ATV operations on a temporary basis. See, Further Notice, Appendix D, p.D-28. While no other VHF-affected community will have more than one VHF allotment, all three stations licensed to Scranton will be required to initiate their ATV operations on the VHF band. Although one of the Commission's allocation policies is not to engage in channel-pairing, Diversified has determined that its station in Scranton, WYOU-TV, Channel 22, will be one of the seventeen stations required to begin their ATV service in the VHF band.

**Diversified and Similarly-Situated Stations Should Not Be
Required to Operate on VHF Channels on a Temporary Basis**

Diversified joined in the Joint Broadcaster Comments ("Joint Comments") filed in this proceeding on behalf of a substantial portion of the broadcast industry. Diversified supports the position proposed in the Joint Comments that the Commission should not limit ATV operations to the UHF band. If that position as advanced in the Joint Comments is adopted, the

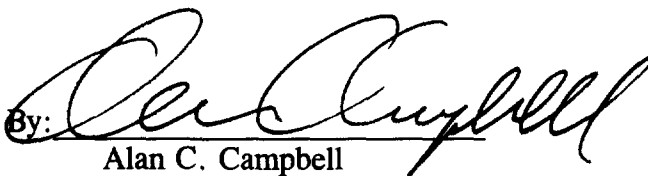
concern with temporary VHF-ATV operations would be eliminated. However, if the Commission adheres to its objective of requiring ATV operations exclusively in the UHF band, then relief should be afforded the seventeen adversely-impacted broadcasters who otherwise would be required to apply for, construct and operate VHF-ATV facilities on a temporary basis, only to repeat the process when a permanent UHF channel is found and allocated for ATV operation.

In a modest effort to alleviate the obvious unfairness of its tentative proposal, the Commission suggests two mild bromides, only one of which would apply to WYOU-TV which, as noted, now broadcasts in the UHF band. Further Notice, ¶ 19. The suggestion that Diversified could switch its ATV operations to Channel 22, its NTSC channel, does not provide reasonable relief. First, there is no assurance that Channel 22 could even be used for ATV broadcasting and, even if it could, Diversified would be forced to rely exclusively on its ATV operations at a time of extremely low projected ATV receiver penetration. Moreover, this suggestion would not relieve Diversified of the unfair burden of having to operate temporarily on one channel, only to shift to another channel for its permanent ATV license. As proposed by the Commission, seventeen parties face the unattractive prospect of being required to apply for, construct and operate VHF-ATV facilities while the remainder of the television industry slides into the UHF band. At some undetermined later date, Diversified would be obligated to dismantle its VHF-ATV operation and construct a new ATV facility in the UHF band. While the Commission hopes that this final conversion would occur at least two years before the advent of the industry conversion to ATV (Id.), there is no assurance that a final UHF channel would be ready for WYOU-TV at that time.

Given the unique situation facing Diversified and the limited number of existing licensees facing this dilemma, we submit that the Commission should not require the seventeen temporary VHF parties to construct and operate their ATV facilities until they are assigned a permanent UHF channel if, in fact, the Commission decides ultimately that ATV will operate exclusively in the UHF band. The construction and operation deadlines otherwise imposed on the industry should not be applied to stations that will operate only temporarily in the VHF band and then be required to rebuild new, permanent ATV operations in the UHF band. Mandatory construction and operation deadlines should apply only when the permanent UHF assignments are allocated to these parties.

Respectfully submitted,

DIVERSIFIED COMMUNICATIONS

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